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I want to thank the Air and Waste Management Association for inviting me to speak here today. I especially appreciate being part of a session devoted to EPA partnerships and corporate pollution prevention. In my mind, non-regulatory actions like these will be key to improved environmental quality in the future.

Last fall, an article titled “The Death of Environmentalism” caused some heated discussion back in Washington, and it’s still being talked about today. It was written by two committed environmentalists, and it contended that the environmental community has failed to create the public support needed to control global warming, because it is wedded to the tactics of the past. The authors called for a new way of doing business in the future, if past successes were to continue.

The article’s title was meant to be provocative. But the authors were not arguing that environmentalist goals have no life, no meaning, today. Rather, they were stating their conviction that the tactics for achieving those goals had to change.

When I read that article, I felt a breath of fresh air stir through the stagnant hallways of Washington, D.C. Back there, almost everyone is still trapped in a regulatory maze – Congress, EPA, industry, the environmental community. After 35 years of working to reduce environmental risk, we all have become habituated, like Pavlov’s dogs, to a single, defined response. The bell of environmental concern rings, and we all look for a new feeding of regulations. Special interest groups pump up the concern, coalitions are formed, EPA proposes new rules,

lawyers leap into action to protest the proposals, and EPA promulgates final rules. Then maybe, many years down the road, after much expense of time, money, and energy, then maybe the regulations force action that contributes to an improvement in the quality of human health and the environment.

A few weeks ago, a friend of mine retired after many years working for EPA. At his going-away party, a colleague remarked that he was never afraid of being sued, as long as he was being sued by both sides. Everyone laughed at that old inside-the-beltway joke, because it speaks to a widely accepted belief about life at EPA. If everyone sues us, we must be doing something right.

I believe all those lawsuits suggest we're doing something wrong, and the joke isn't funny. This is a fact: environmental policy is being decided in the courts, and it has been for a long time.

But the courts are not necessarily a good place to decide environmental policy. They frequently cause delay, and court decisions are often appealed by one side or the other, further dragging out the process. In the meantime, potential health and environmental benefits are put on hold.

In many ways, our environmental regulatory system has served us very well. No doubt many of the dramatic environmental improvements we've enjoyed in this country over the past 35 years are the direct result of environmental regulations. In fact, given political realities in the 1960s and 70s, I believe that little environmental progress would have been possible without tough laws, tough regulations, and tough enforcement.

But the weaknesses of that system are apparent to everyone involved. Besides the legal contentiousness, regulations can take a long time to put in place. The development cycle for our most important, visible regulations at EPA averages

four to five years. From the beginning of work on a rule to its publication in final form, six to ten years – and longer – are not unheard of.

A lot is written about the costs that environmental regulations impose on the U.S. economy. You don't hear much about the costs of the regulatory system itself – costs that can be measured in delayed health protection, political polarization, and loss of faith in our system of governance.

There must be a better way. The authors of “The Death of Environmentalism” are looking for a better way, and the rest of us should, too. The time is ripe for change, a change that goes to the heart of environmental policy in this country.

I believe this better way is exemplified by the kind of actions we've been hearing about this morning, actions taken outside the regulatory system. These actions can take many forms: unilateral corporate pollution prevention like 3M's Pollution Prevention Pays, stakeholder partnerships like CARE, open-ended voluntary programs like Energy Star and WasteWise, and consensus-based collaborations driven by the impending threat of government regulations.

In all cases, the actions taken are not defined by EPA, even though the goals may be. Nor are they required by regulation. The actions are designed by the participants, the stakeholders, and they often involve extensive cooperation by people who in the past have been adversaries. I believe these partnership opportunities hold much promise for the future, precisely because they foster bridge-building and consensus, as opposed to conflict and litigation.

The kinds of non-regulatory activities I'm advocating today have been around a long time, both at EPA and in the business community. I've mentioned a few already. Right here in Minnesota, 3M's 3P program goes back 30 years.

Now I'm suggesting that partnership, collaboration, and voluntary initiative be moved from the fringes of environmental policy to center stage. I'm not talking about an occasional, ad hoc pilot project. I'm not talking about an addendum to the regulatory structure. We should consider using these kinds of actions as the starting point in all our future efforts to manage environmental risk.

Traditional command-and-control regulations would stay in place, and continue to play a crucial role. In some cases, the threat of regulatory action may be the incentive needed to get stakeholders to the table. And if, for any reason, partnerships and collaborations don't get off the ground, or don't hit their environmental targets, then regulations could come into play. But I believe we should look first to non-regulatory alternatives for reducing risk, even if the risk reductions are mandated by law.

Bill Ruckelshaus, who served as EPA's Administrator at two different times, saw the flaws in the regulatory system. In a speech 10 years ago, he said that ...quote..."the [environmental] system is broken." Among the problems straining the system, according to Ruckelshaus, is a belief that pollution is "a form of evil," not just a problem to be worked out by society using rational means. Another is one I just alluded to: "the devolution of all important environmental decisions to the courts." All this, he said, has led to "the nearly steady erosion of trust in all public institutions."

In the same speech, Ruckelshaus described some of the aspects of a new and better environmental protection system. One was "a new sort of consensus process." Even when an environmental goal has been mandated by law, it may be cheaper, faster, and healthier for the nation's social fabric to bring stakeholders together to hammer out a course of action, than it is to write regulations. In

Ruckelshaus's terms, to avoid regulations the stakeholders would have to play the game, and they would be required to live by the terms of any agreement. They would have no recourse to another forum if they didn't like the terms. But they would have great flexibility in designing the agreement itself. At EPA today, I think we could put the Ruckelshaus consensus process to good use.

EPA already has a lot of experience using another non-regulatory option – voluntary partnership programs – to reduce environmental risk. Over the last 10 years or more, the Agency has initiated more than 70 such programs, like Energy Star and WasteWise, and they're still springing up across the Agency as new opportunities are identified

But we need to go farther than that. Those programs should be expanded and given far greater public visibility. We need to be more rigorous, more strategic, more comprehensive in designing those programs. We should look for opportunities to target voluntary partnership programs at specific risks, and better coordinate those programs across all environmental media.

In addition, we at EPA need to do a much better job providing incentives, rewarding, and recognizing companies that take exemplary action outside the regulatory system. Flexibility under current regulations is one incentive we're beginning to use, and one that holds great potential for the future.

This kind of strategic shift toward partnerships and collaboration as the first option for risk reduction will necessitate some changes in attitude and behavior on the part of everyone involved. Lately I've been seeing signs that such change is already happening.

In its Earth Day message this past April, one national environmental organization emphasized the value of building coalitions with unlikely allies and

traditional foes in order to achieve environmental goals. The message played up the importance of building uncommon alliances on common ground, and reaching broad consensus with people and organizations that traditionally have been adversaries.

This won't be easy for anyone, but it feels to me like the opportunity for a fresh start in American environmental policy, a new beginning built not on adversarial regulations but consensus-based partnerships.

A few weeks ago, an editorial appeared in the Washington POST, co-signed by the CEO of General Electric and the president of the World Resources Institute. They discussed the importance – and the value – of working cooperatively to reduce the risks posed by global warming.

One editorial may not signify a sea change in organizational politics. And actions always mean more than words. But it does suggest that both sides are finding common ground for meeting common concerns. And it gives me hope that partnerships are possible today that would have been unthinkable 10 years ago.

A heightened emphasis on non-regulatory action would necessitate changes in attitude and behavior at EPA as well. We at EPA have grown comfortable in our role as regulators and enforcers of the law. After all, we've been doing it for 35 years. But those habits of behavior may stand in the way of change.

I've just finished reading a book by a Wal-Mart executive, who included this observation: "If something has been done a particular way for fifteen or twenty years, it's a pretty good sign, in these changing times, that it is being done the wrong way." At EPA, we've been writing regulations for a lot more than 20 years. So maybe we're doing something the wrong way.

Let me give you one example. Early in his first term, President Bush pushed

hard for, and ultimately signed, a brown fields law that gave a big boost to contaminated site cleanups. EPA began to write a new rule linked to that law, the All Appropriate Inquiry rule. We convened about 30 different stakeholders to negotiate and reach consensus on the terms of the rule. It took us less than a year to finish the job.

It took longer than that to move the negotiated agreement through the internal review processes at EPA and OMB. That's inexcusable. Our internal government processes seem to be experiencing a serious hardening of the arteries, a sure sign of age. Something has to change

To take full advantage of non-regulatory options for reducing risk, EPA's employees would have to learn new skills, skills that would help us become good conveners, mediators, and negotiators. We'd have to get better at understanding how companies think, what motivates them, and how they operate in a global market. We'd have to have a better grasp of the incentives needed to bring organizations with different self-interests into a partnership.

Too often in the past the Agency has acted as if the profit motive were a character defect. Yet businesses are motivated by profit. That's not a dirty word. If we can show businesses how they can often profit by taking risk reduction actions not required by regulation, we'll have a lot better chance of engaging them in fruitful partnerships.

This new way of thinking about the business community is beginning to take root at EPA. I help run EPA's waste management programs, where regulations go back 30 years. Virtually all the waste disposal regulations required by law have been written. The environmental risks associated with waste disposal are now controlled.

But it doesn't make much long-term sense to keep sending more and more waste to more and more disposal facilities, no matter how well-controlled. At every opportunity, we should reduce the waste stream through recycling and reuse – for both environmental and economic reasons.

So at EPA we're now beginning to move into a new era of materials management. We're undertaking a major effort to encourage and support the design, use, and reuse of materials so the waste stream is minimized, and the costs and risks of disposal are reduced as well.

This transition won't happen overnight. But that's where the future lies. My top priority, as long as I'm at EPA, will be to support and expand materials management nationwide.

A few years ago we initiated a new program called the Resource Conservation Challenge to do just that. Under the umbrella of the Challenge, we have partnership initiatives underway in paper/packaging, coal combustion products, and electronics. We're starting others to manage materials like construction/ demolition debris. I expect still others to be formed in the future. I want to facilitate partnerships for recycling and reusing every major waste stream in the country, especially those wastes like biomass that can be converted to energy. Given the rapid run-up in energy prices lately, and the political unrest in major oil-producing nations, we should take advantage of every opportunity to cut oil and gas consumption.

The economic and environmental potential of managing material flows to minimize waste is enormous, and largely untapped. Right now, for example, about 50 percent of the paper used in this country is recovered. That amounts to about 50 million tons. Recovery and reuse in this case reduces our national energy use by

the equivalent of more than 130 million barrels of oil.

In 2002 over 12 million tons of fly ash generated by coal combustion was used to make concrete. That's about one-third of our annual national production of fly ash. The energy savings associated with the use of fly ash in concrete reduced greenhouse gas emissions by more than 11 million tons. About 46 million tons of coal combustion products were diverted from landfills for different uses, saving about 40 million cubic yards of landfill space. Our coal combustion partnership has set a goal of reusing 45 percent of the country's annual production of coal ash, and some people think we can do a whole lot better than that.

Our consumer electronics partners have collected over 20 thousand tons of electronic wastes through events like store-based take-back programs and day-long collection events. These activities have recycled only a tiny fraction of the electronic wastes sent out for disposal every year, so more needs to be done. But they indicate what kinds of programs can work.

In closing, I want to emphasize the importance of results. Our ability to measure and publicize the results of non-regulatory actions will be crucial to their acceptance by the public.

EPA has been criticized for our inability to measure environmental results very well. Years ago, we had a tendency to think we could measure success by the number of regulations issued, or permits written, or enforcement cases tried. But lately we've begun doing a better job measuring success on the basis of improvements out in the environment. That's what the American people ultimately care about.

If we were to make non-regulatory action the first option – the centerpiece – of environmental policy, the only credible measure of success would be

environmental results. It will not be enough for partners to show up for negotiations. It will not be enough to publicize a consensus-based set of actions. We will have to be able to show people that our actions have made a difference in their lives. And the data used to measure results will have to be above reproach and manipulation.

Trust may be a necessary condition for initiating the kind of partnerships and voluntary activities I've talked about today. But verification will be a necessary condition for their success. "Trust, but verify" worked in the arena of national defense. I think it will work as well in the arena of environmental protection.

Maybe environmentalism as it was practiced in the past really is dead. Maybe our nation's traditional reliance on regulations as the primary tool for managing environmental risk should end, too. If we play our cards right, maybe we can build a new environmental ethic in this country, an ethic based on mutual understanding, mutual agreements, and a commitment to stewardship. Maybe this new ethic could bring us environmental benefits beyond anything required by law, and at much less cost. An emphasis on partnership, consensus, and collaboration would help strengthen the social fabric in this country, and give us all renewed hope for a cleaner, healthier future.

There are indications all around that the country's ready for this kind of change. I see signs that economic and environmental interests are merging in new and hopeful ways. The business community and the environmental community seem to be taking slow, halting steps toward each other, and toward a common vision of the future. In a new era of common understanding and shared goals, maybe partnerships, collaboration, and voluntary initiative really could be a better way of protecting the environment.

I think we should give them a chance. Thank you.

Thank you